

S.D.N.Y.-N.Y.C.

07-cv-7559

Wood, C.J.

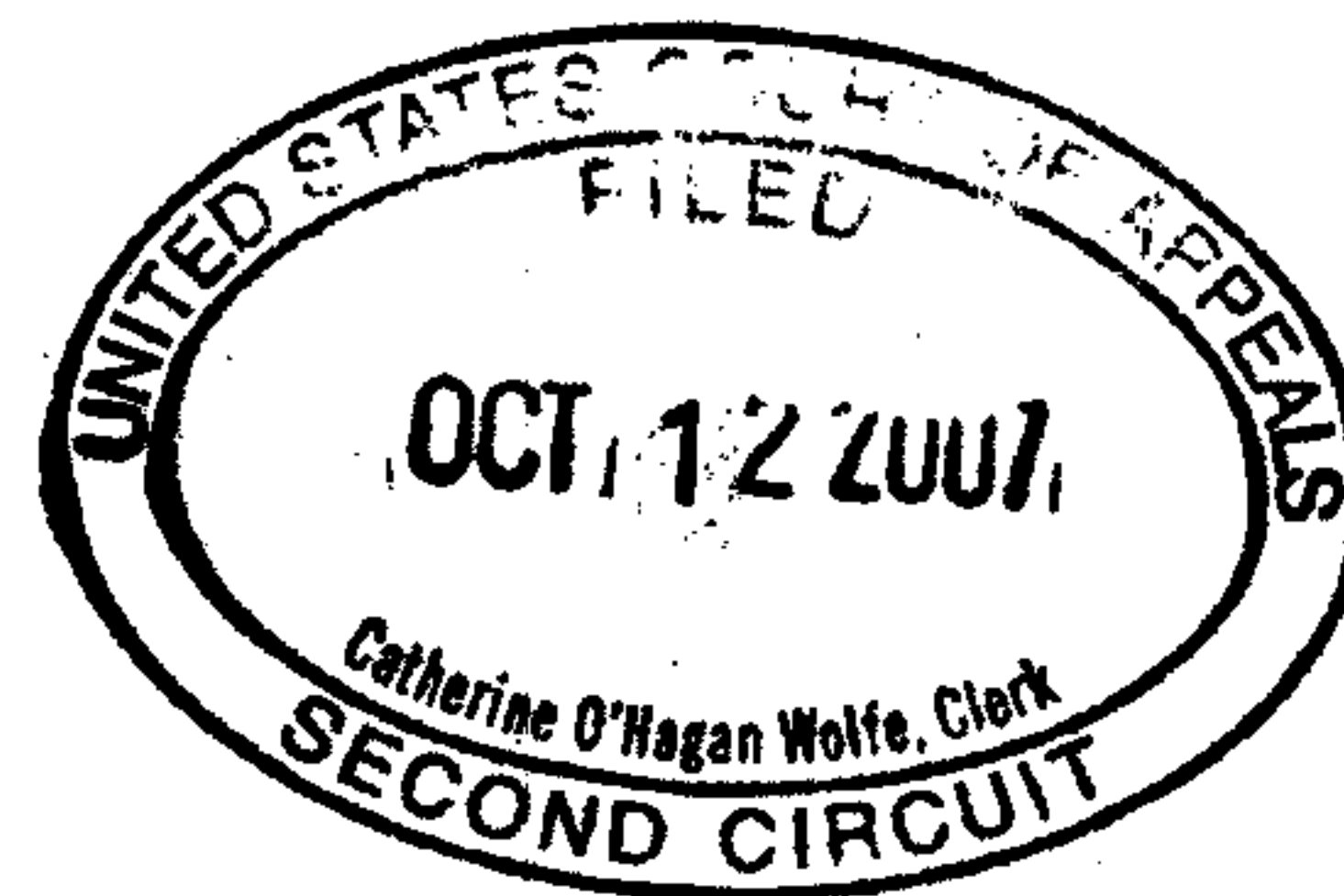
**MANDATE**

**United States Court of Appeals**  
FOR THE  
**SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 12<sup>th</sup> day of Oct., two thousand seven,

Present:

Hon. Robert A. Katzmann,  
Hon. Debra Ann Livingston,  
*Circuit Judges,*  
Hon. Edward R. Korman,\*  
*District Judge.*



Herman McMillan,

*Petitioner,*

v.

07-3890-op

John Burges, Superintendent,

*Respondent.*

Petitioner requests an order authorizing the United States District Court for the Southern District of New York to consider a successive 28 U.S.C. § 2254 petition. Upon due consideration, it is hereby ORDERED that the application is DENIED because Petitioner has not satisfied the criteria set forth in 28 U.S.C. § 2244(b). Contrary to Petitioner's repeated insistence in this and other cases, this Court has never vacated or reversed his 1990 Bronx County convictions, and he remains legally confined.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

By: Lucille Carr**OCT 12 2007**

\*The Honorable Edward R. Korman, District Judge of the United States District Court for the Eastern District of New York, sitting by designation.

A TRUE COPY

Catherine O'Hagan Wolfe, Clerk

by Isabelle Phillip

Deputy Clerk

Issued as Mandate:

**NOV****2 2007**



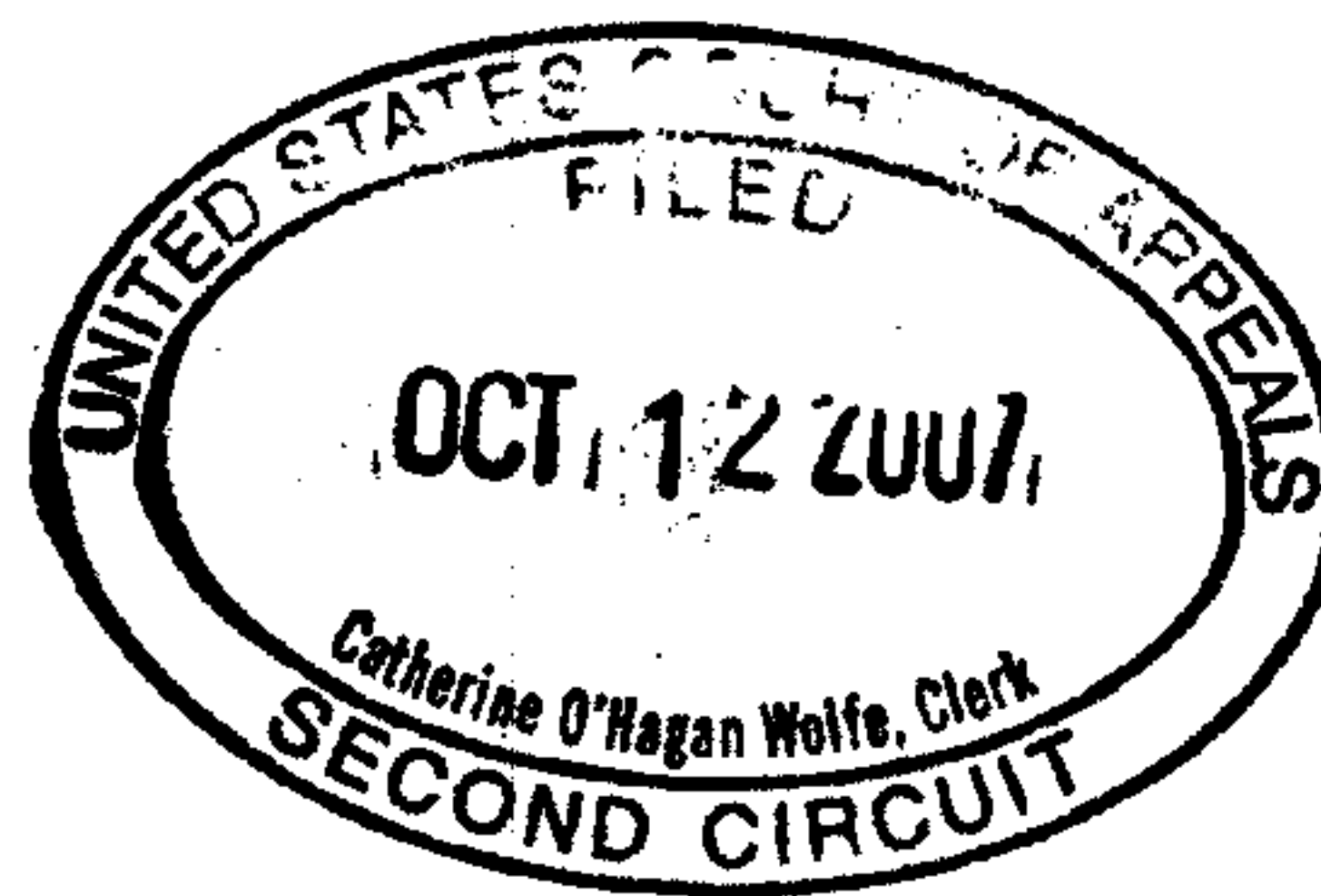
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SAO-MWG

THE MANDATE, CONSISTING OF  
ITEMS BELOW, HAS BEEN RECEIVED  
( ) OPINION ( ) STATEMENT OF COSTS  
(X) ORDER  
RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_